

SECOND REGULAR SESSION

HOUSE BILL NO. 1503

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIESE.

Read 1st time January 16, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3770L.02I

AN ACT

To repeal section 214.387, RSMo, and to enact in lieu thereof one new section relating to cemetery services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 214.387, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 214.387, to read as follows:

214.387. 1. Upon written instructions from the purchaser of a monument, marker or memorial **or internment, entombment, or inurnment cemetery service or services**, a cemetery may defer delivery of such property **or performance of such service or services** to a date designated by the purchaser, provided the cemetery operator, within forty-five days of the date the [property] **agreement** is paid in full, deposits from its own funds an amount equal to one hundred ten percent of such property's wholesale cost **or fifteen percent of the published retail price of the service or services** into a segregated account. Funds deposited in a segregated account pursuant to this section and section 214.385 shall be maintained in such account until delivery of the property **or service or services** is made or the [contract] **agreement** for the purchase of such property **or service or services** is canceled. No withdrawals may be made from the cemetery operator's segregated account established pursuant to this section and section 214.385 except as provided herein. The cemetery operator shall not commingle any other of its funds with the deposits made to the segregated account. Money in this account shall be invested utilizing the "prudent man theory" and is subject to audit by the division. Names and addresses of depositories of such money shall be submitted with the annual report. **For purposes of this chapter, "cemetery services" shall mean those services performed by a cemetery owner or**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 operator licensed pursuant to this chapter as an endowed-care cemetery in which a licensed
18 funeral director is not required to be present and shall include, but not be limited to,
19 setting a monument, tent or vault or excavating a grave. "Burial services" shall mean
20 services which are not considered cemetery services such as the funeral director's
21 supervisory role at a graveside funeral ceremony.

22 2. If at the end of a calendar year the market value of the cemetery operator's segregated
23 account exceeds the then current wholesale cost of all paid-in-full property **and fifteen percent**
24 **of all paid-in-full services** which [has] **have** not been delivered, the cemetery operator may
25 withdraw from the segregated account all realized income earned by such account. If at the end
26 of a calendar year the market value of the cemetery operator's segregated account is less than the
27 then current wholesale cost of all paid-in-full property **and fifteen percent of all paid-in-full**
28 **services** which [has] **have** not been delivered, the cemetery operator shall only withdraw the
29 realized income in excess of (i) the segregated account's market value at year end, plus (ii) all
30 realized income accrued to the segregated account minus (iii) the wholesale cost of all
31 paid-in-full property **and fifteen percent of all paid-in-full services** which [has] **have** not been
32 delivered.

33 3. Upon the delivery of a monument, marker [or], memorial [sold] **or internment,**
34 **entombment, or inurnment service or services agreed upon** by the cemetery or its agent, or
35 the cancellation of the [contract] **agreement** for the purchase of such property **or service**, the
36 cemetery operator may withdraw from the segregated account an amount equal to (i) the market
37 value of the segregated account based on the most recent account statement issued to the
38 cemetery operator, times (ii) the ratio the delivered property's **or service's** deposit in the account
39 bears to the aggregate deposit of all property **and services** which [is] **are** paid in full but not
40 delivered. The segregated account may be inspected or audited by the division.

41 **4. Any transaction described in this section occurring prior to August 28, 2002,**
42 **shall be governed by the provisions of this section as it existed at the time of such**
43 **transaction. Transactions which are executory on or after August 28, 2002, shall be**
44 **governed by this section. Nothing in this section shall be deemed to be retroactive.**